**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. 360 OF 1990**

The State of Maharashtra ..Appellant

versus

Nathuram @ Nathu Shripati Walke, age 27
Occ: Agriculturist,
R/o. Bhavadi, Tal: Ambegaon
District : Pune ..Respondent (Ori.Accused)

Mr. P. S. Hingorani, APP for the Appellant.

Mr. R. R. Bhonsale for the Respondent - Original Accused.

**CORAM : D. G. DESHPANDE, &**
**S. R. SATHE, JJ.**

**DATE : 17TH JANUARY, 2007.**

**ORAL JUDGMENT : ( Per. D. G. DESHPANDE, J.) :**

1. Heard learned APP for the Appellants - State and learned Advocate for the Respondent - accused.

2. This Appeal is filed by the State against acquittal of the accused under Section 342 and 376 of I.P.C. Accused is acquitted by Judgment dated 8.2.1990 passed by Assistant Sessions Judge, Pune.

3. It was the case of the prosecution that the accused committed rape with a woman Nanda, who was married at the time of the incident. The trial court acquitted the accused holding that it was a case of consent. Nanda was married. Accused and her house was adjacent i.e. at a distance of 5 feet only. The acquittal is based mainly upon two aspects. Firstly, there were absolutely no injuries of any kind on the person of victim because if it was a case of rape then it was expected that there should be a resistance and in that either she or the accused suffers some injury, scratching, biting or something like that. But the doctor who examined the prosecutrix - victim found that there were no injuries of any kind, for which there was no explanation. Secondly, when the husband came back and knocked the door of the house of the accused, it was opened by Nanda the prosecutrix and when Nanda started complaining, her husband hit her forcefully resulting in bleeding on the nose. These two circumstances were rightly considered by the trial court to give benefit of doubt to the accused and to hold that this was a case of consent. There are no witnesses to the incident, obviously because it is a case of rape. We do not find any perversity in the

judgment of the acquittal. No interference is called for. In the result, we pass the following order:

**ORDER**

. Appeal is dismissed.

. Bail bond of the accused stands cancelled.

**(D.G. DESHPANDE, J.)**

**(S. R. SATHE, J.)**